



Unveiling Little Tech in Nigeria: A White Paper on the Public Policy Considerations in the Automated Management of Workers

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November 2023



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Acknowledgements

The researcher extends sincere gratitude to Dr. Wilneida Negrón, Director of Policy and Research at Coworker.org, for her pivotal role as the primary point of contact during the initial research engagement with New Venture Fund, which served as the basis for the present research. Furthermore, profound appreciation is extended to the eight interview subjects who graciously devoted their time and shared their invaluable insights, thereby greatly enhancing the quality of this research and making substantial contributions to the findings.

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1. Introduction

The aim of this research is to identify Little Tech that is sold and/or available in Nigeria. It also provides a summary of trends that highlight problematic vendors and practices, raising public policy issues in Nigeria. These public policy issues focus on the use and/or sales of Little Tech¹ in relation to the monitoring and/or surveillance of gig workers. This research also includes various policy recommendations necessary to protect the interests of these workers in Nigeria's evolving gig economy. In this research, the term 'Little Tech' refers to 'the unregulated marketplace of tech products that are collecting and aggregating data about workers at almost every step of the labour process – hiring/ recruitment, workplace safety and productivity, workplace and public benefits, reskilling/ retraining, et al'.² In other words, these products automate different aspects of the labour and/or employment process.

This research is an expanded version of the scope of work originally outlined in the Agreement entered by the researcher and New Venture Fund and builds upon the US database of Little Tech products identified by Coworker.org.³ It is a spin-off and may be read in conjunction with the report 'Little Tech Is Coming For Workers'⁴ by Wilneida Negrón, Ph.D. Unlike the US Little Tech Tech Report, this research focuses solely on products sold and/or used in Nigeria and excludes those already catalogued in the US Little Tech Report. Furthermore, the public policy issues discussed and recommendations proposed are specific to Nigeria.

2. Methodology

This research is primarily based on desk research using publicly available information and Crunchbase⁵ to identify established and emerging products and their vendors (or proprietary owners) in Nigeria. Unstructured interviews were conducted with eight (8) different individuals comprised of both

1 Unless specifically indicated otherwise within this research, the terms 'product(s)' and 'tool(s)' are employed interchangeably to denote items categorised as 'Little Tech', which are either sold or accessible for use within the Nigerian. These items are documented in the database accessible at <https://www.techpolicy.com.ng/nigeria-little-tech-microsoft-excel-1-november-2023/>.

2 Wilneida Negrón, 'Little Tech Is Coming for Workers: A Framework for Reclaiming and Building Worker Power' (2021) <<https://home.coworker.org/wp-content/uploads/2021/11/Little-Tech-Is-Coming-for-Workers.pdf>> accessed 18 September 2022, p. 6.

3 https://docs.google.com/spreadsheets/d/1QL_2IFg1EpcG6tojfwnQmBhcofHtnjqgV2-iHd-bfkc/edit#gid=1130304328

4 Hereinafter referred to as 'US Little Tech Report'.

5 <https://www.crunchbase.com/>.



workers and human resource (HR) professionals.⁶ Out of the 8 individuals interviewed, only three (3) agreed to have their names and organisations disclosed in this research. The primary objective of these interviews was to identify products that are currently in use in Nigeria, as well as those offered for sale by local vendors in Nigeria. During some of these interviews, participants were asked about their experiences and concerns regarding the usage of these identified products in order to gain some insights into the operational aspects and data collection practices associated with each product. The identified products are catalogued in a spreadsheet available online at <https://www.techpolicy.com.ng/nigeria-little-tech-microsoft-excel-1-november-2023/>. Each row in the spreadsheet requires the entry of information primarily related to the operational features and data collection practices of a specific product.

Desk research was also utilised in identifying and analysing public policy issues stemming from the use of these products, and to propose recommendations addressing these issues. Additionally, doctrinal legal research was employed to analyse and interpret legal texts. However, this analysis should not be read as a legal opinion or the authoritative position of law in Nigeria.

The information required to be entered in the spreadsheet for cataloguing the products is factual, and in most cases was obtained from sources such as Crunchbase, product website, and interviews with current or former workers of companies using the products. If such information is not available or insufficient, it presents a research limitation that could have been overcome by using the catalogued products or by conducting a technical analysis by the researcher. Unfortunately, due to time and resource constraints, the researcher was unable to conduct a technical analysis or use any of the products to aid the data collection process for each catalogued product. The only exception is the product NextCounsel, which the researcher has used on multiple occasions and is familiar with some of its features.

This research is divided into 5 parts. Part A provides an overview of the types of Little Tech products identified in Nigeria. Part B summarises the trend and highlights problematic products and questionable practices of vendors/users in Nigeria. Part C analyses public policy issues that arise from using Little Tech in Nigeria, which are constitutional, discrimination, competition, labour, data protection and social in nature. Part D recommends policy options for stakeholders to address the issues identified in Part C and safeguard workers' interests in Nigeria's gig economy. Lastly, Part E provides the concluding remarks of this research.

⁶ The record of conducted interviews, along with their corresponding interview notes, can be found in Appendix 1 of this white paper.



3. Part A: Overview of Little Tech

The products identified are based on the database product taxonomy described in the US Little Tech Report.⁷ According to this taxonomy, these products are categorised into four (4) distinct groups namely:

- I. workplace performance, productivity monitoring;
- II. workplace safety;
- III. workplace benefits, health, and well-being; and
- IV. labour job market and workplace optimisation.

With the exception of workplace safety, all the products catalogued in this research fall into at least one of these categories. They comprise several modules that include features from a particular category of the database product taxonomy.⁸ This research has catalogued forty- four (44) products currently available and in use in Nigeria. The majority of these products are owned by Nigerian companies, while others are used in Nigeria but have an origin territory outside of Nigeria. All the parent companies of these products are privately held and operational. It is also important to mention that the products already identified and catalogued in the US database can be made available over the internet for purchase by users physically located in Nigeria.⁹ Furthermore, it is noteworthy that out of the products catalogued, only four (4) have explicitly declared their adherence to an internationally recognised Quality Management Systems (QMS) standard, subject to external audits.

4. Part B: Summary of Trends Current use practices and investors

First, the catalogued products monitor and surveil two main categories of workers in Nigeria: those who work remotely (referred to as 'crowd work') and those who work on-site (referred to as 'work on demand via an app'),¹⁰ or in the office premises. Aside from platform operators utilising these products as part of their organisational process, the Little Tech marketplace in Nigeria mainly consists of traditional commercial vendors¹¹ and traditional business intelligence vendors.¹² Out of these

7 Wilneida Negrón, 'Little Tech Is Coming for Workers: A Framework for Reclaiming and Building Worker Power' (n 2) 24.

8 *ibid* 25.

9 Although the researcher did not confirm whether any of these products have a geo-blocking feature.

10 Antonio Aloisi, Valerio De Stafano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (Hart Publishing 2022), p. 9.

11 See Wilneida Negrón, 'Little Tech Is Coming for Workers: A Framework for Reclaiming and Building Worker Power' (n 2) 20.

12 *ibid*.



companies, only eighteen (18) have their investors publicly disclosed, while the rest appear to be bootstrapped. Notably, companies with US foreign venture capital firms as investors have a corporate office in the US, the origin territory of the venture capital.

The usage pattern observed of the catalogued products indicates that they are frequently employed within organisational Human Resources (HR) departments. These products are commonly referred to as either a Human Resources Information System (HRIS) or Human Capital Management (HCM) by HR professionals in Nigeria. These products have features such as productivity scoring,¹³ scheduling,¹⁴ and payroll processes.¹⁵ Another use case for these products is in call center operations, mainly contracted as part of business process outsourcing by telecommunications service providers, but also utilised in the hospitality, e-commerce, courier delivery services, and aviation industries. In these industries, customer care agents who respond to questions about a company's products or services by telephone are monitored by their employers for various reasons. Examples of products used for this purpose and catalogued in this research are Aheeva, 3CX, and AnyDesk.

Furthermore, this research finds that these products are notably used in the fast-moving consumer goods (FMCG) industry for tracking workers in the field, the logistics industry, and the mobility-as-a-service industry. Examples of such products include LagosRide, Fez, Messenger, Gokada, and SENRI. These particular sets of products have features like physical monitoring, location tracking, productivity scoring, scheduling, and hiring and recruitment (onboarding). Lastly, various types of closed-circuit television (CCTV) and video surveillance products are used by retail outlets and supermarkets to monitor the activities of cashiers, in addition to their use as part of the on-premises security arrangement.¹⁶

With regards to the data collection practices of the catalogued products, this research reveals that most vendors have a privacy policy that outlines how they process the personal data they collect. Unfortunately, a review by the researcher indicates that these privacy policies do not comply with the provisions of the Nigeria Data Protection Regulations 2019 (NDPR), which is one of the laws governing data protection in Nigeria. The research also shows that many employers who use these catalogued products do not fully comply with their obligations as data controllers under the NDPR in relation to their data processing practices. The details of these non-compliances are provided below in Part C v.

13 For example, Nextcounsel.

14 For example, Seamless HR, Accur8HR and Pade.

15 For example, Sage 300 people and MyXalary.

16 In the course of this research, it is important to note that no specific video surveillance or CCTV product has been specifically catalogued. This is due to the extensive presence of over one hundred and fifty (150) distinct brands available in the Nigerian market.



Additionally, only one of the catalogued products (Zoho) has a publicly available security policy, and the only one to have conducted a data protection impact assessment in accordance with the provision of the General Data Protection Regulations (GDPR) applicable in EU. Furthermore, there is no publicly available evidence to indicate that vendors or manufacturers have conducted impact assessments in terms of human rights or disability for any of the catalogued products.

Lastly, it is noteworthy that drivers engaged in on-demand services through ride-hailing applications within Nigeria have come to acknowledge the significance of unionisation as an avenue through which they can collectively negotiate for improved working conditions. This encompasses advocating for equitable labour practices and safeguarding against any undue exploitation by their employers. To facilitate this purpose, they have established the Amalgamated Union of App-based Transport Workers of Nigeria (AUATWON), an organisation that has recently obtained formal recognition as a trade union from the Federal Ministry of Labour and Employment.¹⁷ AUATWON represents all app-based transport workers, online transport services, and e-hailing drivers and operators in Nigeria. In June, AUATWON went on strike to demand an increase in their base fares and a reduction in the commission collected by ride-hailing platforms.¹⁸

4.1 Purposes of use

According to a review of open-source information and interviews with workers and HR practitioners, the purposes of using these products vary among employers and depend on the type of technology being used. This research identifies the following purposes: evaluating and measuring worker performance, ensuring company productivity and competitiveness, complying with company policy, assisting in training and supervision, scheduling and allocating work, protecting company property and assets, disciplining and rewarding workers, and detecting and deterring unlawful activities.

Out of all the products catalogued, only NextCounsel is used in the professional service industry. Additionally, only nine (9) of the identified products make specific claims about what their algorithms or other automated decision-making techniques can achieve.

17 William Ukpe, 'Bolt, Uber Drivers Form Trade Union as FG approves AUATWON' (25 January 2023) <<https://nairametrics.com/2023/01/25/bolt-uber-drivers-form-trade-union-as-fg-approves-auatwon/>> accessed 18 September 2023.

18 Funmilayo Fabunmi, 'Bolt, Uber, Other Ride-hailing Drivers Begin Nationwide Strike' (7 June 2023) <<https://punchng.com/bolt-uber-other-ride-hailing-drivers-begin-nationwide-strike/>> accessed 18 September 2023.



5. Part C: Public Policy Considerations in the use of the Products

Public policy, for the purpose of this research, refers to a course of action that sets 'conditions and constraints for individuals and collective behaviour',¹⁹ with a focus on regulating human conduct.²⁰ In the context of this research, public policy primarily examines the regulatory and social implications of the catalogued products. The public policy issues highlighted in this research can be categorised into two groups: those arising from the practices of vendors selling the products, and those arising when management or employers use these products in the workplace. The following cases will discuss examples to specify whether the implicated practice belongs to the vendor, the employer, or both.

These public policy issues are broadly grouped under five main categories: constitutional, discrimination, competition, labour, data protection, and social. Each category will be discussed in detail below.

5.1 Constitutional issues

5.1.1 Right to private and family life

From a constitutional perspective, the use of these products interferes with the right to private and family life of Nigerian workers guaranteed under section 37 of the Constitution of the Federal Republic of Nigeria (the Constitution). According to this section, 'the privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.' An interview with a driver on a ride-hailing platform expressed concern that the 'always connected' nature of the product has blurred the lines between work and his personal life to the extent that he feels that he is at the disposal of his employer twenty-four (24) hours a day, seven (7) days a week.²¹ This according to him is a serious interference with their section 27 right granted by the Constitution.

Without a doubt, many workers believe that the use of certain products enhances their employers' ability to continuously and relentlessly spy on them using various tracking software and devices.²² Back in 1993, the International Labour Organisation

19 Christoph Knill and Jale Tosun, *Public Policy A New Introduction* (2nd edn, Red Globe Press 2020), p. 15.

20 *ibid* 16.

21 See Antonio Aloisi, Valerio De Stefano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10) 37 - 38.

22 Valerio De Stefano, Virginia Doellgast, 'Introduction to the Transfer Special Issue. Regulating AI at work: Labour Relations, Automation, and Algorithmic Management' (February 2023) <<https://journals.sagepub.com/doi/pdf/10.1177/10242589231157656>> accessed 17 September 2023, p. 10.



(ILO) expressed concerns that video monitoring of workers made it easier to invade their privacy and harder to detect.²³ The monitoring of workers through these products raises questions about whether or not it violates section 37 of the Constitution, which protects the rights of Nigerian workers.

5.1.2 Right to peaceful assembly and association

These products could interfere with the right to assemble freely and associate with others protected by section 40 of the Constitution. As an example, where these products indicate that a large number of workers are converging at a certain location in real-time, management may assume that an agitation or collective organisation is being planned, and take preemptive measures to prevent this from occurring.²⁴ Accordingly, if this presumption is true, then management has constructively interfered with the right of a worker to assembly freely guaranteed under section 40 of the Constitution.

5.1.3 Lack of fair hearing

Based on interviews with some drivers on ride-hailing platforms, it appears that the operators of these platforms occasionally suspend or deactivate driver accounts without providing clear explanations for their actions. As one driver mentioned, this situation could stem from the rigorous monitoring undertaken by ride-hailing platforms to assess driver performance. In certain cases, drivers may face penalties if their performance does not align with the company's expectations.²⁵ For example, ride-hailing apps gather and analyse diverse data points, including driver ratings, completion rates, cancellation rates, as well as speed and navigation data. These data points offer valuable insights into the behavior of drivers.²⁶ In exceptional scenarios, Artificial Intelligence (AI) can be harnessed to meticulously analyse historical data, thereby enabling accurate predictions pertaining to a driver's future conduct and performance.²⁷

23 International Labour Office, 'Conditions of Work Digest Workers' Privacy Part II: Monitoring and Surveillance in the Workplace' (1993) <[https://www.ilo.org/public/libdoc/ilo/P/09921/09921\(1993-12-1\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09921/09921(1993-12-1).pdf)> accessed 24 August 2023, p. 20.

24 Antonio Aloisi, Valerio De Stefano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10) 56.

25 See generally, Sarah Butler, 'Deliveroo accused of 'creating vocabulary' to avoid calling couriers employees' (5 April 2017) <<https://www.theguardian.com/business/2017/apr/05/deliveroo-couriers-employees-managers>> accessed 20 August 2023.

26 Antonio Aloisi, Valerio De Stefano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10) 37.

27 *ibid.*



This decision-making may sometimes lead to the implementation of a penalty or an adverse action taken against the driver that includes suspension or permanent deactivation of the driver's account. This account termination from a labour rights perspective can constitute the termination of an employment contract.²⁸ Based on the interviews conducted with these drivers, it does seem that when these situations arise, affected drivers were neither provided with a clear, nor sufficient explanation behind these decisions. This lack of transparency, according to the drivers, is exacerbated by the absence of any established organisational policy that enables them to request a review of these decision-making processes. Consequently, this creates significant obstacles for drivers in their attempts to challenge such determinations.

Not only is the inability of drivers to be heard before an adverse action is taken against them contrary to Principle 4: Fair Management of the Fairwork Framework,²⁹ it also raises concerns of a potential violation of the ILO Termination of Employment Convention.³⁰ Labour law experts in Nigeria emphasise that such violations can be formally addressed before the National Industrial Court of Nigeria (NICN). This assertion is supported by constitutional provisions granting the NICN exclusive jurisdiction over cases related to, or associated with, unfair labour practices, as well as international best practices in labour, employment, and industrial relations matters.³¹

5.2 Discrimination

Section 28 (1) of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 (DAPDA) states that 'A person with a disability has the right to work on an equal basis with others, including the right to have an opportunity to gain a living through work that is freely chosen or accepted in an open labour market and work environment'. This means that individuals with disabilities are protected from discrimination in all aspects of employment, including the hiring process. Discrimination, as defined by the DAPDA, refers to any form of 'differential treatment'.³²

28 *ibid.*

29 Fairwork, 'Fairwork Nigeria Ratings 2023: Advocating for Increased Safety and Security in the Platform Economy' (2023) <<https://fair.work/wp-content/uploads/sites/17/2023/08/Nigeria-accessible-version-v2.pdf>> accessed 12 September 2023, pp 23 – 24.

30 International Labour Organisation (ILO), Convention Concerning Termination of Employment at the Initiative of the Employer, 22 June 1982, C158.

31 O.D. Amucheazi, M.I. Anushiem, 'The National Industrial Court of Nigeria and the Application of Fair Hearing in Master-Servant Employment Disputes: A Critique' (2018) <<https://journals.unizik.edu.ng/index.php/jcpl/article/download/414/383/951>> accessed 16 July 2023, p. 10.

32 Section 57.



Unfortunately, some hiring and recruitment products have the potential to perpetuate discrimination, which is prohibited under the DAPDA. These products may unfairly screen out qualified individuals with disabilities from the hiring process, thus limiting their equal employment opportunities. For example, peopleHum and Zoho Recruit's video interview feature could assess a job applicant's employability based on factors including speech patterns. In such cases, applicants with speech impediments are more likely to be excluded if their speech patterns are the primary criterion for determining their problem-solving abilities. Another example is Keke HR, which can be used to administer computer-based pre-employment tests. Visually impaired or blind individuals who attempt to sit exams administered by this product would be automatically excluded because they are unable to see the computer screen and take the tests.

Another concern is that the use of pre-employment testing conducted through products like Keka HR and Seamless HR to evaluate the intelligence quotient, cognitive abilities, skills, personality and other traits of an applicant has the potential to discriminate against people³³ suffering from a mental health condition.³⁴ If the mental health condition qualifies as a disability, the use of such tests may be challenged under section 28 (1) of DAPDA unless it can be demonstrated that the tests are fair and reasonable in the circumstance and will have no adverse impact on the employability of persons with a mental health condition. For instance, where a maths test is set for an applicant applying for a position where knowledge of maths is required for the successful performance of the job functions. In addition, a person suffering from a mental health condition is guaranteed equal access to work and employment opportunities by section 13 (1) of the National Mental Health Act 2021 (NMHA).

Although the use of these tests is still prevalent in Nigeria, it may be considered unlawful under the DAPDA and the NMHA if it leads to unfair discrimination and exclusion of applicants with disabilities and/or mental health conditions from jobs they are otherwise qualified for. These are hypothetical scenarios where the use of such screening products in hiring and recruitment negatively affects the equal right to work and employment opportunities for applicants.

33 See generally, Ifeoma Ajunwa, *The Quantified Worker Law and Technology in the Modern Workplace* (Cambridge University Press 2023), pp. 107 – 108.

34 Section 57 of the National Mental Health Act 2021 defines a mental health condition as:

... impairments, activity limitations and individual and participatory restrictions arising from diagnosable mental disorders which involve significant changes in thinking, emotion or behaviour and cause distress or problems in the interaction between the individual and his environment and include intellectual, psychosocial or cognitive disabilities



5.3 Competition

5.3.1 Monopsony power of gig economy platforms

Unlike monopoly where sellers are able to exercise market power by setting the price at which goods are sold without being constrained by competition in the market, monopsony is market power exercised by the buyer.³⁵ Monopsony exists where the buyers have a strong negotiating position with their suppliers, who do not have alternative buyers, thus negating the potential of these suppliers (or sellers) to exercise market power.³⁶ A monopsonist is able to exercise its market by reducing its demand for a product in order to compel sellers to sell at less than market-competitive prices.³⁷ In labour markets, monopsony describes a situation where the employer possesses market power that enables wage-setting below levels that would have prevailed in a competitive market,³⁸ allocates customers to clients and evaluates job performance.³⁹ This type of conduct is not so different from the one engaged by ride-hailing apps such as Uber and other gig economy platforms where prices are set, customers are selected and routes are determined on the basis of an algorithm in which the worker has no input.⁴⁰

The exercise of this type of market power in the labour market has been argued to comprise elements constituting price-fixing, market division, exclusionary practices, and other core competition offences.⁴¹ In Nigeria, the Federal Competition and Consumer Protection Commission Act 2018 (FCCPA) prohibits an undertaking from exercising its market power in an abusive manner whether as a monopolist or as a monopsonist.⁴² A prominent feature of monopsony in labour markets is that it gives rise to a one-sided power dynamic that favours the employer while limiting the ability of gig workers to negotiate matters of self-interest in connection with the terms of their engagement.⁴³ The existence of monopsony power

35 Chukwuyere Ebere Izuogu, *Regulating Anti-competitive Practices in Nigeria's Communications Sector* (Wolf Legal Publishers, the Netherlands, January 2017), p. 141.

36 See generally, Roger D. Blair, Jeffrey L. Harrison, *Monopsony in Law and Economics* (New York: Cambridge University Press, 2010).

37 Herbert Hovenkamp, *Federal Antitrust Policy The Law of Competition and Its Practice* (3rd edn, Thomson/West 2005), p. 14.

38 Satoshi Araki et al, 'Monopsony and Concentration in the Labour Market' (9 September 2022) <<https://www.oecd-ilibrary.org/sites/Oecab874-en/index.html?itemId=/content/component/Oecab874-en#:~:text=Monopsony%20describes%20the%20situation%20in,rate%E2%80%9D%20aligned%20with%20their%20productivity.>> accessed 23 August 2023.

39 Marshall Steinbaum, 'Monopsony and the Business Model of Gig Economy Platforms – Note by Marshall Steinbaum' (5 June 2019) <[https://one.oecd.org/document/DAF/COMP/WD\(2019\)66/En/pdf](https://one.oecd.org/document/DAF/COMP/WD(2019)66/En/pdf)> accessed 23 August 2023, p. 2.

40 *ibid.*

41 *ibid.*

42 Section 72 (1).

43 Ifeoma Ajunwa, *The Quantified Worker Law and Technology in the Modern Workplace* (n 33) 332.



in the gig economy is a grey area that skirts around competition and labour laws making it possible for gig economy platforms to operate unhindered without recourse to either regulatory framework.⁴⁴

This monopsony power may appear harmless at the moment, but the recent unionisation of ride-hailing drivers under the AUATWON has the potential to limit the monopsony power of ride-hailing platforms. This can be achieved through collective bargaining, allowing for negotiations of better wages for their members.⁴⁵ These types of negotiations can potentially raise liability issues since they involve decisions made by an association, which could be considered a restrictive agreement under the FCCPA. However, they are exempt from being prohibited under section 68 (1) (b).

5.4 Labour issues

5.4.1 Wage theft and creeping over time

Wage theft is the non-payment of wages for work performed, or 'when an employer deprives an employee of pay which he or she is due as remuneration for work performed.'⁴⁶ In contrast, the practice of 'creeping over time' involves the calculation of the extra time worked to the nearest unit of time, ultimately resulting in a reduction of the exact compensation owed to the employee. Both the Labour Act of Nigeria⁴⁷ and decisions from the NICN vested with original jurisdiction to hear and decide labour-related disputes support the position that a worker has a right to be paid wages (or salary) for work done.⁴⁸

In the course of this research, a prevalent trend was identified in the categorisation of products related to workplace performance and productivity monitoring. Specifically, a prominent feature observed among these categories of products was the incorporation of a time-tracking feature that enables the employer to easily record and/or generate

44 Marshall Steinbaum, 'Monopsony and the Business Model of Gig Economy Platforms – Note by Marshall Steinbaum' (n 39) 2 – 3.

45 See CPI, 'EU: Vestager Says Collective Bargaining in Gig Economy Would Not Be Cartel-Like Behavior' (24 October 2019) <https://www.pymnts.com/cpi_posts/eu-vestager-says-collective-bargaining-in-gig-economy-would-not-be-cartel-like-behavior/> accessed 06 September 2023.

46 Todd Palo, 'Minimum Wage, Justifiably Unenforced?' (2010) <<https://scholarship.shu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1001&context=shlj>> accessed 16 August 2023, pp. 39 – 40.

47 Section 7 (1) (f).

48 See generally, *National Union of Hotels and Personal Service Workers v Federal Palace Hotels Limited* Suit No: NIC/12/88 (unreported) where the court held that an 'employee has a right to his agreed wages'.



the hours worked in order to calculate the compensation payable to a worker.⁴⁹ While these products are primarily designed to ensure the precise tracking of billable hours worked by employees, it is important to note that due to the inherent lack of transparency in the algorithmic management of workers, they can also inadvertently enable instances of wage theft through various means.

For instance, wage theft could potentially occur when there is a lack of transparency in how the algorithm calculates the commission or payment to be earned for work done, where gig economy workers in the ride-hailing or delivery sector are not compensated for the unproductive wait time spent in picking up a rider and/or order.⁵⁰ At its most extreme, the time-tracking functionality may exhibit a profound degree of inaccuracy. Furthermore, in situations where the products remain in constant operation, the time tracking feature can potentially record activities performed during intervals typically designated as off-duty, which, in fairness, ought to be compensated for. Conversely, it may fail to accurately compute the hours worked and the corresponding remuneration for overtime hours.⁵¹

In a 2017 study⁵² carried out in the United States, three types of wage theft were identified after reviewing three hundred and thirty (330) labour-related cases litigated at the federal and state courts and they are: rounding where employers configure the time tracking feature to calculate (or round) small bits of time worked to a specific unit of time;⁵³ automatic break deduction where time spent on breaks such as lunch and bathroom breaks are automatically deducted from the time worked;⁵⁴ and lastly, time shaving where the employer manipulates the time tracking feature with the intention of reducing the time spent, thereby reducing the wage to be paid.⁵⁵

49 Elizabeth Chika Tippet, Charlotte Alexander, Zev J. Eigen, 'When Timekeeping Software Undermines Compliance' (10 January 2017) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2902756> accessed 16 August 2023, p. 3.

50 Antonio Aloisi, Valerio De Stefano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10) 37; Focus on Labour Exploitation, 'The Gig is Up: Participatory Research with Couriers in the UK App-Based Delivery Sector' (*Participatory Research Working Paper 3*, 2021) <https://labourexploitation.org/app/uploads/2021/11/FLEX_TheGigsUp_v4_0.pdf> accessed 21 August 2023, p. 21.

51 See Focus on Labour Exploitation, 'The Gig is Up: Participatory Research with Couriers in the UK App-Based Delivery Sector' (n 50) 35.

52 Elizabeth Chika Tippet, 'How Employers Profit from Digital Wage Theft Under the FLSA' (July 2018) <https://www.researchgate.net/publication/325201518_How_Employers_Profit_from_Digital_Wage_Theft_Under_the_FLSA> accessed 16 August 2023.

53 *ibid* 338 – 356.

54 *ibid* 356 – 373.

55 *ibid* 356 – 385.



With the exception of automatic break deduction which was confirmed as part of a call centre's organisational policy in an interview conducted by the researcher with an HR practitioner who once acted as a call centre supervisor, it is still not clear how prevalent these other practices are while using the any of the catalogued product. Nonetheless, the possibility of the existence of wage theft does underscore the need for strong labour protections for gig workers that include not being monitored or engaged outside of work hours, otherwise known as the right to disconnect.⁵⁶ Implementing this practice will guarantee that employees receive fair compensation commensurate with the time invested in performing their work. Furthermore, it will establish a transparent employment framework and manner in which wages are calculated.

5.4.2 The inability of workers to exercise their labour rights due to (mis)classification

Nigerian labour law distinguishes between employees and independent contractors. A worker who is classified as an employee enjoys several rights and/or benefits that are: right to maternity leave; right to sick leave; right to freedom from discrimination; right to participate in trade union activities; right to annual paid holiday; right to be paid repatriation in certain circumstances and right to compensation for death, injury or disease.

One of the factors to be considered when assessing whether a worker is an employee or an independent contractor is the degree of control over the means of the work and who exercises such control. If such control is exercised by the worker, it is likely that the worker would be categorised as an independent contractor rather than an employee.⁵⁷ On the other hand, it is arguable that the use of these products to monitor the activities of workers allows the employer to exert some form of control over the means by which the work is accomplished. A European jurist explains how control is usually exercised with regard to ride-hailing apps such as Uber in the following terms:

While this control is not exercised in the context of a traditional employer-employee relationship, one should not be fooled by appearances. Indirect control such as that exercised by Uber, based on financial incentives and decentralised passenger-led ratings, with a scale effect, makes it possible to

56 Tina Weber, Oscar Vargas Llave, 'Right to disconnect: Exploring company practices' (2021) <https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef21049en.pdf> accessed 18 August 2023 2023, p. 1.

57 See generally, *University of Abuja v. Professor Kingsley Ologe* [1996] 4 NWLR (Pt. 445) 706.



manage in a way that is just as – if not more – effective than management based on formal orders given by an employer to his employees and direct control over the carrying out of such orders.⁵⁸

In Nigeria, this kind of control happens in a number of instances, for example, delivery agents of large e-commerce companies and courier delivery services who are mostly categorised as independent contractors, are monitored by their employing organisation to ensure that work is executed in a particular manner according to company set standards. This monitoring ranges from using a route optimisation algorithm to determine the best and most efficient route to take for picking and delivering packages, matching workers with clients (or passengers) based on proximity of location or client request⁵⁹ and on-board CCTV to monitor and caution/discipline the agent where behaviour violates company policy.

In other words, these products enable employers and line supervisors to convey instructions to the workers, supervise their implementation of the work and evaluate the final product.⁶⁰ Control by products categorised as workplace performance and productivity monitoring have been said to be exercised by an employer through any of the following three (3) primary mechanisms which are: direction, that is the power to assign tasks and specify the manner of performing the work in what order and time;⁶¹ evaluation, that is the power to evaluate work performance and compliance with company directives;⁶² and discipline that is the power to sanction for less than expected or negligent performance or even disobedience to company issued direction.⁶³ In the case of mobility-as-a-service such as ride-hailing, app-based delivery service and logistic tech the exercise of control can be done through sophisticated monitoring devices that

58 Opinion of Advocate General Szpunar delivered on 11 May 2017 in Case C-434/15 *Asociación Profesional Elite Taxi v Uber Systems Spain SL*, para. 52.

59 Focus on Labour Exploitation, 'The Gig is Up: Participatory Research with Couriers in the UK App-Based Delivery Sector (n 50) 21.

60 Herbert A. Simon, 'Organisations and Markets' (1991) <<https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.5.2.25>> accessed 04 June 2023, pp. 25 - 44.

61 Katherine C. Kellogg, Melissa A. Valentine and Angèle Christin (2020) 'Algorithms at Work: The New Contested Terrain of Control' <https://angelechristin.com/wp-content/uploads/2020/01/Algorithms-at-Work_Annals.pdf> accessed 04 June 2023, pp. 372 - 376.

62 *ibid* 376 - 379.

63 *ibid* 380 - 382.



track geo-location in real-time,⁶⁴ thus also raising data protection compliance issues as discussed below in Part C v. Indeed, as argued in a regulatory filing made before the National Labor Relations Board (NLRB) in the United States, ‘it is difficult to imagine companies surveilling workers for purposes other than possessing or exercising control’⁶⁵ over how the work is to be performed.

While it bears emphasis to mention that in the ride-hailing sector in the EU, the misclassification of drivers as independent contractors had in the past been defended on the basis that ride-hailing apps such as Uber are intermediating platforms that only connect drivers with passengers,⁶⁶ and further that Uber neither owns cars nor employs drivers.⁶⁷ However, this argument has been refuted by the Court of Justice of the European Union on the grounds that an economic unit is not an undertaking if it is unable to independently determine its own conduct on the market.⁶⁸ It is also interesting to note that several court cases in the EU have now taken cognisance of this misclassification of gig workers, especially in situations where platforms ‘exert a certain degree of control over the remuneration and performance of work’ and on this basis have given decisions reclassifying these independent contractors or self-employed workers to employees employed by the platforms.⁶⁹

Despite this level of control exercised by the employer regarding the manner in which the work is performed, the fact still remains that workers in Nigeria’s gig economy tend to be misclassified as independent contractors. This diffusion of managerial control by so-called intermediating platforms diminishes the organisational bureaucratic structure

64 Antonio Aloisi, Valerio De Stefano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10), p. 98.

65 Jobs With Justice and Governing for Impact, ‘Comments Regarding NLRB’s Notice of Proposed Rulemaking on the Standard for Determining Joint-Employer Status, RIN 3142-AA21’ (5 December 2022) <<https://governingforimpact.org/wp-content/uploads/2022/12/Jobs-With-Justice-Governing-for-Impact-NLRB-Joint-Employment-Comment.pdf>> accessed 04 June 2023, p. 7.

66 See generally, Damien Geradin, ‘Should Uber be Allowed to Compete in Europe? And if so How?’ (18 June 2015) <https://www.pymnts.com/cpi_posts/should-uber-be-allowed-to-compete-in-europe-and-if-so-how/> accessed 20 August 2023.

67 Damien Geradin, ‘Principles for Regulating Uber and Other Intermediation Platforms in the EU’ (18 October 2017) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3055023> accessed 20 August 2023, p. 5.

68 Case C-217/05 *Confederación Española de Empresarios de Estaciones de Servicio v Compañía Española de Petróleos SA*, para. 44.

69 Permanent Representatives Committee, ‘Proposal for a Directive of The European Parliament and of the Council on Improving Working Conditions in Platform Work’ (7 June 2023) <<https://data.consilium.europa.eu/doc/document/ST-10107-2023-INIT/en/pdf>> accessed 13 September 2023, para. 7.



through which management exercises control over the workers.⁷⁰ This challenges the traditional interpretation of an employer-employee relationship.⁷¹ As argued by some European labour law experts, control and subordination are clear indications of the existence of an employment contract.⁷² Unfortunately, while this misclassification remains a topical issue in Nigeria, it will continue to deprive gig workers of the ability to exercise their rights as employees or even enforce these rights against their employers.⁷³ It also enables employers who exert control over independent contractors through these products, to circumvent responsibilities in relation to the costs, risks and liabilities inherent in an employer-employee relationship, thereby resulting in the fissuring of work.⁷⁴

5.5 Data protection

Unlike the right to privacy, which is limited to citizens of Nigeria according to the wording of section 37 of the Constitution, data protection rights extend to all residents of Nigeria, including employed workers, regardless of their citizenship. It is essential to note that during the course of this research, the Nigerian Data Protection Act of 2023 was enacted on 12 June 2023. However, prior to the enactment of this law, the Nigerian Data Protection Regulations of 2019 (NDPR) served as the prevailing law governing data processing in Nigeria and remains in effect during this research. Therefore, the issues discussed in this section are based on the NDPR, which predates the Data Protection Act of 2023.

To trigger the application of the NDPR, it is pertinent to know that all the products catalogued in this research, handle the personal data of workers. This personal data encompasses information such as location data, images, IP addresses, names, telephone numbers, and more. Consequently, the catalogued products give rise to the following data protection concerns.

70 Jeremias Adams-Prassl, Halefom Abraha, Sangh Rakshita, 'Regulating Algorithmic Management: A Blueprint' (20 April 2023) <<https://journals.sagepub.com/doi/pdf/10.1177/20319525231167299>> accessed 10 September 2023, p. 140.

71 *ibid.*

72 Antonio Aloisi, Valerio De Stefano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10) 114.

73 *ibid* 86.

74 Cynthia Estlund, 'Regulating Work in an Age of Fissuring and Automation' (8 April 2019) <<https://www.theregview.org/2019/04/08/estlund-regulating-work-fissuring-automation/>> accessed 06 June 2023; Cynthia Estlund, 'Workplace Autocracy in an Era of Fissuring' (3 April 2019) <<https://lpeproject.org/blog/workplace-autocracy-in-an-era-of-fissuring/>> accessed 06 June 2023.

5.5.1 The governing law for the privacy policy

Only a few of the products listed in the catalogued specifically mention the GDPR as the governing law in their privacy policies. This absence of a designated governing law presents a significant hurdle for individuals seeking to determine the appropriate legal avenue for seeking redress in the event of a privacy policy violation. For instance, in the case of Zoho, which maintains a Global Privacy Policy along with separate privacy policies for three (3) different jurisdictions, there exists a disparity among potential users of these products, as some jurisdictions undoubtedly provide a more robust level of privacy protection than others.

5.5.2 Adequacy of personal data processed

One of the governing principles of data processing under the GDPR is that it must be adequate, accurate and without prejudice to the dignity of the human person.⁷⁵ Being adequate means that the data processed must be no more than necessary for the purpose pursued by the data processing operation. In an employment context, if the products are used for the purpose of evaluating a worker's performance during office hours, it makes no sense for these products to continue this monitoring outside of work hours and/or while the worker is off-duty. According to an interview with a former worker in an organisation using SENRI,⁷⁶ this tool is so 'intrusive' as it shows the location of field staff at any given time, even when they are at home.

A disregard for this obligation can definitely ground a liability claim under the GDPR as location data is considered to be personal data within the meaning of the GDPR.

5.5.3 Consent as a legal base for processing the personal data of a worker

Under the GDPR, consent is one of the legal bases that can legitimise the processing of personal data. For consent to meet the standard prescribed by the GDPR, it must be 'freely given, specific, informed and unambiguous indication of the data subject's wishes', that he or she agrees to the processing of his or her personal data. An interview with a former employee of an organisation using one of the catalogued products indicate that the consent of workers was neither sought nor obtained by management prior to deploying the products.

75 Art. 2.1 (1) b).

76 <https://senriltd.com/>



The applicability of consent as a legal base in an employment context is also questionable when considered in the light of the ‘asymmetrical bargaining power between workers and employers’,⁷⁷ and the freely given element of consent. If indeed consent has been given in this circumstance, the question becomes whether the worker had a genuine free choice otherwise the consent given may be deemed to be invalid. Moreover, this former employee additionally confirmed that even in the event that management sought his consent or that of another colleague, refusal was rarely an option, as such a response might be perceived as confrontational by the management, potentially leading to adverse employment consequences.

5.5.4 Security of personal data

Art. 2.1 (1) d) establishes the security principle of data processing under the GDPR. This provision states that personal data must be ‘secured against all foreseeable hazards and breaches such as theft, cyberattack, viral attack, dissemination, manipulations of any kind, damage by rain, fire or exposure to other natural elements’. In addition, art. 2.6 mandates data controllers and processors to develop security measures to protect data; such measures include but not limited to protecting systems from hackers, setting up firewalls, storing data securely with access to specific authorised individuals, employing data encryption technologies, developing organisational policy for handling Personal Data (and other sensitive or confidential data), protection of emailing systems and continuous capacity building for staff.

In the spreadsheet used for cataloguing identified products in Nigeria, the row ‘AD’ is headed ‘encryption’ to indicate the extent to which a vendor implements security measures involving the encryption of the data processed by the product. Unfortunately, in a review of the available privacy policy of the catalogued products, only twelve (12) expressly mention the use of encryption as a security measure to protect personal data. It is also worth noting that, out of all the catalogued products reviewed, none of them make any explicit reference to the implementation of encryption within their information security policies. This lack of emphasis on encryption represents a deficiency on the part of the vendors in ensuring the secure processing and storage of personal data, thereby contravening the provisions stipulated in the GDPR. A failure by the vendor to ensure that personal data is processed by the product and/or is kept securely violates the GDPR and exposes the personal data of the workers surveilled to a potential loss of confidentiality, integrity and/or availability of their personal data.

⁷⁷ Wilneida Negrón, ‘Little Tech Is Coming for Workers: A Framework for Reclaiming and Building Worker Power’ (n 2) 16.



5.5.5 Transparency of data processing operation

From a data protection perspective, most of these products do not meet the regulatory requirement of transparency imposed by the NDPR. For instance, only a handful of the privacy policy of the products identified states the type of personal data collected and the reason for collection. In most cases, the privacy policy is silent on the data collected and/or the purpose of collection. In extreme cases, some of the products do not even have an identifiable privacy or information security policy.⁷⁸

In addition, an employer who processes personal data through these products to monitor a worker acts as a data controller and is required by the NDPR to comply with certain transparency obligations. For instance, under art. 3.1 (1) of NDPR, a data controller, is the 'person who either alone, jointly with other persons or in common with other persons or as a statutory body determines the purposes for and the manner in which personal data is processed or is to be processed' is required to provide any information relating to the processing of the data subject in a transparent manner. This requirement is satisfied if the information is provided 'in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child'. The right to transparency of the data processing operation enjoyed by the data subject essentially requires the data controller to be 'honest about the ways in which personal data is used'.⁷⁹

To reinforce this transparency obligation, the data controller is mandated by art 3.1. (7) of the NDPR to make certain disclosures to the data subject prior to collecting his or her data. Some of these disclosures are; the identity and the contact details of the data controller; the contact details of the data protection officer; the purposes of the processing for which the personal data are intended as well as the legal basis for the processing; the recipients or categories of recipients of the personal data, if any; and where applicable, the fact that the data controller intends to transfer personal data to a third country or international organisation and the existence or absence of an adequacy decision by the Nigerian Data Protection Commission (NDPC). An interview with one worker formerly employed by an organisation using one of these products confirms that no such information about the use of these products was given to them by their employer nor was this information documented in any organisational wide-policy.

78 For example, TAMS, NextCounsel, Accur8HR, Focus HR, HrManeja and SENRI.

79 Hannah Jackson, 'Information Provision Obligations' in Eduardo Ustaran (ed), *European Data Protection Law and Practice* (2nd edn, IAPP 2019), p. 141.



Where such products process the personal data for automated-decision-making regarding the performance of a worker or the worker's working conditions, the GDPR requires the data controller to inform the data subject (the worker) of the existence of this fact and to provide 'meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for [him or her]'.⁸⁰ It has been argued that 'meaningful information about the logic involved' is an explanation of how the automated decision-making system will interact with the data subject and his personal data rather than an explanation of how the automated decision-making system operates in general.⁸¹

Interviews conducted by the researcher with drivers using inDrive and Lagos Ride have revealed that neither company has provided any information, either in written policies or verbally, regarding the extent of the monitoring activities conducted by their respective apps. Furthermore, there is no clarity on how these apps make automated decisions or conduct reviews related to a driver's performance. One driver, who actively uses multiple ride-hailing apps, expressed concerns about the lack of transparency regarding how drivers are matched with riders. It remains unclear whether this matching process is based on driver performance or rider reviews, which could potentially affect a driver's earnings negatively, especially if false reviews are not adequately scrutinised. Additionally, another driver using one of the catalogued ride-hailing apps voiced concerns about the frequent deactivation of drivers without any explanation or established procedures for appealing such decisions by the ride-hailing operator.

In a separate instance, an employee working as a cashier in a retail supermarket reported that their employer consistently fails to inform workers in advance about workplace monitoring through CCTV cameras, providing no explanation for the purpose of such monitoring. Overall, these interviews highlight a significant lack of transparency and communication on the part of both ride-hailing companies and employers regarding monitoring practices and decision-making processes, which may have important implications for workers and drivers alike.

The employer's failure to disclose this information as required by art. 3.1(1) and art. 3.1(7) constitutes a violation of the GDPR.

80 GDPR art 3.1 (7) I).

81 Andrew D Selbst, Julia Powles, 'Meaningful information and the right to explanation' (2017) *International Data Privacy Law*, Vol. 7, No. 4, 233, p. 237.

5.5.6 Absence of a Data Protection Impact Assessment (DPIA), Human Rights Impact Assessment (HRIA) or other types of impact assessment

Out of all the products catalogued, only Zoho has carried out a comprehensive data protection impact assessment⁸² in compliance with the GDPR applicable in the European Union (EU). The NDPC, the data protection authority in Nigeria requires that data processing operations involving the 'intense use' of personal data should be subject to a DPIA.⁸³ A DPIA is a governance tool recommended in data protection operations for identifying and minimising data protection risks.⁸⁴ The nature of these risks could be material, non-material or even social⁸⁵ and they present as harms that include discrimination, identity theft, fraud and financial loss, profiling with respect to work performance, unauthorised reversal of pseudonymisation and loss of confidentiality, integrity and availability of personal or sensitive data.⁸⁶

While it is not clear what constitutes intense use of data that would trigger a DPIA, however, it is very arguable that the majority of, if not all of the products catalogued engage in the intensive processing of data for the following two reasons. Firstly, they process multiple personal data of workers, and secondly, this data processing is conducted in an extensively computerised and automated manner.⁸⁷ A framework proposed for conducting a DPIA consists of the following six elements: (a) a description of the envisaged processing operation; (b) the purpose of the processing; (c) an assessment and the necessity and proportionality of the processing operation in relation to the purpose(s); (d) an assessment of the risks to the rights and freedoms of the data subject; (e) risk mitigation measures being proposed to address any identified risk; and lastly consultation with the NDPA where identified risks cannot be sufficiently

82 <https://www.zoho.com/sign/gdpr-dpia-compliance.html>

83 National Information Technology Development Agency, Nigeria Data Protection Regulations 2019: Implementation Framework' (November 2020) <<https://nitda.gov.ng/wp-content/uploads/2021/01/NDPR-Implementation-Framework.pdf>> accessed 18 August 2023, p. 6.

84 Chukwuyere Ebere Izuogu, 'Conducting Data Protection Impact Assessment for Online Profiling under the NDPR 2019' in Muhammed Tawfiq Ladan, Osatohanmwun Eruaga and Nkiruka Maduekwe (eds), *Digital Economy Law and Policy* (Nigerian Institute of Advanced Legal Studies, November 2022), p. 336.

85 Centre for Information Policy Leadership, 'Risk, High Risk, Risk Assessments and Data Protection Impact Assessments under the GDPR' (21 December 2016) <https://iapp.org/media/pdf/resource_center/cipl_gdpr_risk_21_dec_2016.pdf> accessed 6 June 2021, pp. 6 - 7.

86 *ibid* 17 - 18.

87 Christopher Mondschein, 'The Regulation of Targeted Behavioural Advertising in the European Union' (July 2017) <https://www.maastrichtuniversity.nl/sites/default/files/mcel_master_working_paper_20172_mondschein_2.pdf> accessed 7 June 2021, p. 7.



mitigated by the measures prescribed in the DPIA.⁸⁸ Unfortunately, there is no evidence to show that a DPIA or any other form of impact assessment was conducted on any of the products catalogued.

5.6 Social issues

5.6.1 Mistrust, fear and stress

As documented in one ILO study⁸⁹ workers have expressed their mistrust of monitoring and surveillance of worker activities for a number of reasons that include: infringement of their right to privacy; the intrusive nature of these products makes prying into their private lives very easy; constant monitoring evokes a feeling that the worker cannot be trusted; and discoveries from worker surveillance can be used to retaliate and/or take an adverse action against the worker.⁹⁰ Some of the concerns expressed in this ILO study were also expressed by at least one worker who was interviewed for this research. This mistrust is also compounded by the fact that workers have no insight into how some of these products work or the basis of their decision-making especially if the underlying technology is powered by AI.⁹¹

This worker also expressed some fear that the monitoring of their activities could have a chilling effect on freedom of expression and even their ability to organise as a union which is a constitutionally protected right. In the US, the NLRB in condemning the covert monitoring of union activities by an employer in a board hearing recognises the fear that some workers may have if they are being monitored by their employers in stating that the observation and recording of suspected union activity by the worker 'tends to create fear among employees of future reprisals'.⁹² This fear is even more pronounced when workers individually or collectively protest the use of workplace surveillance and/or the manner in which these products assess their performance for disciplinary purposes. This fear has a broader implication for freedom of expression and involvement in labour union activities

88 Chukwuyere Ebere Izuogu, 'Conducting Data Protection Impact Assessment for Online Profiling under the NDPR 2019' in Muhammed Tawfiq Ladan, Osatohanmwun Eruaga and Nkiruka Maduekwe (eds), *Digital Economy Law and Policy* (n 84) 363 – 376.

89 International Labour Organisation, 'Workers' Privacy Part II: Monitoring and Surveillance in the Workplace' (n 23).

90 *ibid.*

91 Amina Adadi, Mohammed Berrada (2018), 'Peeking Inside the Black-Box: A Survey on Explainable Artificial Intelligence (XAI)' (17 September 2018) <<https://ieeexplore.ieee.org/document/8466590>> accessed 24 August 2023, p. 52138.

92 *Brasfield & Gorrie, LLC*, 366 NLRB No. 82, slip op. at 5 (2018) (quoting *National Steel & Shipbuilding Co.*, 324 NLRB 499, 499 (1997), *petition for review denied*, 156 F.3d 1268 (D.C. Cir. 1998)).



because it has the effect of interfering, coercing and/or restraining workers from freely expressing themselves in the workplace and stopping or preventing the initiation of trade union activities.

Lastly, there are several research which suggest that the constant monitoring of workers by some of these products may have some stress effect on them⁹³ and in extreme cases can even lead to psychological distress.⁹⁴ The effect of this stress is amplified in the case of drivers on ride-hailing platforms where they are 'tracked and monitored constantly for how fast they drive, how quickly they brake, and whether or not they accept all the rides that are sent to them, all through the app on their phone'.⁹⁵ This type of 'constant surveillance according to workers who responded to a survey 'results in stress, anxiety, and depression', which in turn can produce negative health outcomes such as headaches, anxiety, depression, heart disease and high blood pressure.⁹⁶

6. Part D: Recommendations

6.1 Increased enforcement by the relevant regulators and stakeholders

This is done proactively to reinforce the enforcement of laws and regulations pertaining to each of the public policy issues identified above. Through increased enforcement stakeholders such as regulatory authorities, civil society and individual citizens are able to seek appropriate remedies when a violation is alleged to have occurred or is occurring.

Vendors and employers who deploy such products are strongly encouraged to proactively take effective corrective actions aimed at rectifying the specific issues identified within each category and, in doing so, mitigating the potential risks associated with these issues.

6.2 Labour rights stakeholders, activists and litigators to assert international best practices in labour, employment and industrial relation matters before the NICN

One of these best practices is the principle of the *primacy of fact* advanced by the ILO in the following words:

93 Trade Union Congress (29 November 2020) 'Technology Managing People - The Worker Experience <<https://www.tuc.org.uk/research-analysis/reports/technology-managing-people-worker-experience>> accessed 24 August 2023, p.7.

94 International Labour Organisation, 'Workers' Privacy Part 2: Monitoring and Surveillance in the Workplace' (n 23) 22 - 24.

95 Martha Ockenfels-Martinez, 'Workplace Surveillance Harms Essential Workers' (21 January 2021) <<https://belonging.berkeley.edu/blog-workplace-surveillance-harms-essential-workers>> accessed 18 October 2023.

96 *ibid.*

The determination of the existence of an employment relationship should be guided by the *facts* of what was actually agreed and performed by the parties, and not by the name they have given the contract. That is why the existence of an employment relationship depends on certain objective conditions being met (the form in which the worker and the employer have established their respective positions, rights and obligations, and the actual services to be provided), and not on how either or both of the parties describe the relationship.⁹⁷

This means 'that the court must give preference to the facts of the case over the contractual agreements between the parties.'⁹⁸ As explained above in Part C iv. (b) especially in relation to work on demand via an app, there is always the tendency to misclassify workers even though the nature of the work arrangement is consistent with a typical employer-employee relationship due to the fact that the employer exerts control (through the app) on the work performance and the worker is dependent on the employer on how the job should be performed.⁹⁹ Asserting the principle of primacy of facts before the NICN can rectify this situation by reclassifying the working arrangement of demand via an app as an employment contract.¹⁰⁰

In another recommendation, the ILO states that 'an employment relationship should be guided by the facts of what was actually agreed and performed by the parties, and not on how either or both of the parties describe the relationship'.¹⁰¹ In a subsequent recommendation,¹⁰² the ILO further clarifies that:

the determination of the existence of such a relationship should be guided primarily by the facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterised in any contrary arrangement, contractual or otherwise, that may have been agreed between the parties.¹⁰³

97 International Labour Office. 'The Scope of Employment Relationship' (2003) <<https://www.ilo.org/public/english/standards/relm/ilc/ilc91/pdf/rep-v.pdf>> accessed 24 September 2023, p. 23.

98 Oladapo Olabode, 'Labour Outsourcing Arrangements in Nigeria: Understanding the Liabilities of Labour Contractors and End Users Over Contract Staff' (27 July 2023) <https://www.oladapoolabode.com/2022/07/labour-outsourcing-arrangements_in.html#:~:text=The%20primacy%20of%20fact%20principle.contractual%20agreements%20between%20the%20parties> accessed 21 August 2023.

99 Antonio Aloisi, Valerio De Stafano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10) 96.

100 *ibid.*

101 The International Labour Organisation, 'The Employment Relationship' (2005) <<https://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-v-1.pdf>> accessed 21 August 2023, p. 24.

102 International Labour Organisation, 'R198 - Employment Relationship Recommendation, 2006 (No. 198)' (15 June 2006) <<https://www.ilo.org/static/english/inwork/cb-policy-guide/employmentrelationshipprecommendationno198.pdf>> accessed 21 August 2023, para. 11.9

103 *ibid.*



Accordingly, the working arrangement would undergo an in-depth assessment regarding the actual substance of the relationship rather than the label it is given.¹⁰⁴ Interestingly, case laws from the NICN also appear to recognise the primacy of facts and have indeed applied them in a number of cases. In *PENGASSAN v Mobil Producing Unlimited*¹⁰⁵ the NICN, citing parts of an ILO Report,¹⁰⁶ held as follows:

The determination of the existence of an employment relationship should be guided by the facts of what was actually agreed and performed by the parties, and not by the name they have given the contract. That is why the existence of an employment relationship depends on certain objective conditions being met (the form in which the worker and the employer have established their respective positions, rights and obligations, and the actual services to be provided), and not on how either or both of the parties, describe the relationship. This is known in law as the principle of the primacy of facts.

Another best practice is the Universal Labour Guarantee contained in the ILO Report of the Global Commission on the Future of Work.¹⁰⁷ This guarantee requires that '[a]ll workers, regardless of their contractual arrangement or employment status, should enjoy fundamental workers' rights, an 'adequate living wage', maximum limits on working hours, and safety and health at work.'¹⁰⁸ These rights would apply irrespective of whether the worker is classified as an employee or independent contractor in Nigeria.¹⁰⁹ This guarantee creates enforceable rights for gig and platform workers in Nigeria, which can be asserted before the NICN as an international best practice in labour matters.

The authority of the NICN to rely on foreign labour codes and/or recommendations is legally backed by section 7 (6) of the NICN Act 2006 which states that the court in hearing labour-related matters must have due regard to good or international best practices and constitutional

104 International Labour Organisation 'Regulating the Employment Relationship in Europe: A Guide to Recommendation No. 198' (March 2013) <https://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@dialogue/documents/publication/wcms_209280.pdf> accessed 21 August 2023, p. 33.

105 Suit No: NICN Lagos /47/2010 (unreported).

106 International Labour Organisation, 'The Scope of the Employment Relationship' (n 97) 23.

107 International Labour Office, 'Work for a brighter future - Global Commission on the Future of Work' (2019) <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/publication/wcms_662410.pdf> accessed 24 September 2023.

108 *ibid* 12.

109 Antonio Aloisi, Valerio De Stefano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10) 128.



provisions, that vests the court with exclusive jurisdiction to hear cases relating to, or connected with unfair labour practices or international best practices in labour, employment and industrial relations matters.¹¹⁰

6.3 The NDPC should monitor the use of these products and their impact on data protection

The NDPC as the data protection authority should consider the use of these products as an enforcement priority for both vendors and employers in order to resolve the data protection issues highlighted above. The NDPC should also mandate organisations that deploy any of these products to conduct a DPIA on an ongoing basis that comprehensively considers all the potential data protection risks that may be faced by a worker and the corresponding mitigating measures to specifically address those risks.¹¹¹

Addressing the above-highlighted data protection issues not only shows that both vendors and employers using these products have up-to-date evidence to establish their compliance with the NDPR, but it also shows that they have taken steps to implement actionable measures to protect the privacy of the personal data of workers that are processed by these products. The NDPC may also in consultation with vendors and employees establish a code of conduct that prescribes a commitment towards the general principles of the NDPR as it relates to the processing of a worker's personal data.

The scope of these commitments may include prohibiting the use of these products to monitor workers in specific contexts such as when off-duty, where collective organising is planned or processing personal data of workers intended to make predictions about the worker that are unrelated to worker's essential job functions.¹¹² The NDPC may also want to explore adopting recommendations and policies regarding the introduction of these products in an organisation and whether to grant approval for deploying them prior to going live.¹¹³

110 Offornze D. Amucheazi (SAN), Paul U. Abba, *The National Industrial Court of Nigeria: Law, Practice and Procedure* (2nd edn, Kraft Books Limited 2019), pp. 268 – 269.

111 Chukwuyere Ebere Izuogu, 'Conducting Data Protection Impact Assessment for Online Profiling under the NDPR 2019' in Muhammed Tawfiq Ladan, Osatohanmwun Eruaga and Nkiruka Maduekwe (eds), *Digital Economy Law and Policy* (n 84) 377.

112 Jeremias Adams-Prassl, Halefom Abraha, Sangh Rakshita, "Regulating Algorithmic Management: A Blueprint" (n 70) 129 – 130.

113 International Labour Organisation, 'Workers' Privacy Part 1: Protection of Personal Data (1992) <[https://www.ilo.org/public/libdoc/ilo/P/09921/09921\(1991-10-2\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09921/09921(1991-10-2).pdf)> accessed 20 August 2023, p. 209.



6.4 Trade unions, civil society and privacy activists to engage in robust advocacy to raise awareness of the risks associated with the use of these products

While it is possible that these stakeholders may not have the necessary expertise to identify these risks and propose strategies for overcoming them. However, one way to overcome this would be to borrow from examples done at the international level or in another country. For instance, both the ILO and UNI Global Union¹¹⁴ publish several guides, recommendations and reports to help workers and trade unions better understand the impact of these new technologies in the workplace and how to navigate their rights within the evolving gig economy landscape.¹¹⁵ Trade unions in other countries such as the Trade Union Congress in England and Wales, The Unión General de Trabajadores (UGT) in Spain and the Italian General Confederation of Labour (CGIL) also have some publications and/or undertaken initiatives in this regard¹¹⁶ which could serve as reference guides for stakeholder engagement and designing strategies for addressing these risks in Nigeria.

This advocacy should also include the calling and shaming of vendors and/or employers who fail to comply with ethical standards regarding the use of these products.

6.5 Establishment of Works Council by labour ministry in collaboration with labour union

The Ministry of Labour, in partnership with organised labour, should establish a dedicated works council consisting of ministry officials and representatives from relevant trade unions. The primary objective of this works council should be to set forth comprehensive standards and regulations governing the utilisation of AI-powered systems, especially those employed in automated decision-making processes concerning employee performance. Drawing inspiration from the proposed EU Platform Work Directive,¹¹⁷ these recommended guidelines and standards should encompass the authority of this works council to assess these AI systems thoroughly. They should also be granted access to the underlying parameters and instructions guiding the AI.

Furthermore, the works council should have the authority to prescribe a framework through which both employees and labour unions can challenge automated decision-making outcomes

114 <https://uniglobalunion.org/>

115 Valerio De Stefano, Simon Taes, 'Algorithmic Management and Collective Bargaining' (9 December 2022) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4441619> accessed 24 September 2023, p. 30.

116 *ibid* 30 – 31.

117 Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving working conditions in platform work.



within a reasonable timeframe. Distinguishing itself from the proposed EU Platform Work Directive, these regulations should possess a broader scope. Their application should extend beyond platform-based employment scenarios, aiming to safeguard the rights and privacy of all workers, regardless of their industry or union affiliation, against invasive workplace surveillance technologies.

The basis of this recommendation is original research which suggests that the use of these products is unlikely to produce 'meaningful and useable outcomes without mechanisms to ensure that users participate in developing models, selecting and maintaining data, and verifying results'.¹¹⁸

6.6 Labour unions to engage in collective bargaining in relation to the use of these products

Collective bargaining is the process of arriving at a collective agreement in Nigeria.¹¹⁹ A collective agreement is an agreement in writing regarding working conditions and terms of employment concluded between (a) organisation of workers or an organisation representing workers (or association of such organisations); and (b) an organisation of employers or an organisation representing employers (or an association of such organisations).¹²⁰

There is a general consensus that collective bargaining is the most potent arsenal that can be used by labour unions in addressing the risks associated with the automated management of workers.¹²¹ Through collective bargaining, the ability of an employer to monitor a worker can be significantly curtailed thus materially improving the protection of labour rights exercisable by gig economy workers in connection with the use of these products.¹²² In fact, it has been argued that '[t]he *ex-ante* governance allowed by collective [bargaining] over technological developments is unquestionably more effective than an *ex-post* damage-control approach, given the transformative use of technology in the world of work'.¹²³

118 Valerio De Stefano, Virginia Doellgast, 'Introduction to the Transfer Special Issue. Regulating AI at work: Labour Relations, Automation, and Algorithmic Management' (n 22) 12.

119 Section 91 (1) Labour Act of Nigeria

120 Section 91 (1) Labour Act of Nigeria; Section 48 Trade Disputes Act of Nigeria.

121 Valerio De Stefano, Simon Taes, 'Algorithmic Management and Collective Bargaining' (n 115) 27.

122 *ibid.*

123 *ibid* 29.



The scope of collective bargaining may include:

- a) a reasonable and objective means for calculating compensation that a worker is entitled to for the hours expended during wait times. A simple analogy that highlights the absurdity of non-payment would be the case of on-demand chefs who despite being available and in apron during their regular shift were to be paid only if they picked up an order rather than the hours, they have made themselves readily available for work on-premises;¹²⁴
- b) The necessity for conducting an impact assessment is paramount. In addition to the vendors' and employers' obligation to carry out a DPIA in accordance with the NDPR, there is also a critical requirement for a full-scope comprehensive impact assessment for certain products. This is particularly crucial when these products are used in areas such as workforce management, employment, and facilitating self-employment. Notably, this extends to activities like the recruitment and selection of individuals, decision-making regarding promotions and terminations, and the allocation, monitoring, or evaluation of tasks within work-related contractual relationships. These activities have the potential to significantly influence the future career prospects and livelihoods of workers.¹²⁵
- c) Mandatory transparency and explainability in the use of these products particularly as it relates to the decision of an employer to 'restrict, suspend or terminate the [gig] worker's account [and] to refuse remuneration for work performed'.¹²⁶ This also includes access by both the labour union and the affected worker to the underlying information that formed the basis of the decision-making by a product and a communications channel by which the worker is able to appeal such decision-making.¹²⁷
- d) Consultation with union representatives in discussions surrounding the implementation of new technologies with potential implications for the workforce. Extensive research underscores the fact that workers overwhelmingly endorse such consultations before

124 Antonio Aloisi, Valerio De Stefano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10) 92 - 93.

125 See Recital 36 of Proposal for a Regulation of The European Parliament and of The Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) And Amending Certain Union Legislative Acts.

126 Antonio Aloisi, Valerio De Stefano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10) 62.

127 Valerio De Stefano, Simon Taes, 'Algorithmic Management and Collective Bargaining' (n 115) 28.



these innovations are introduced into the workplace.¹²⁸ This collaborative approach not only fosters trust but also guarantees that these technological advancements are employed in a manner that serves the best interests of both employers and employees.¹²⁹

- e) Negotiating through collective bargaining to constrain monopsony power.
By organising and negotiating collectively, workers can exert more influence and pressure on dominant employers to improve labour conditions. This might involve negotiating for higher wages, better benefits, safer working conditions, or other improvements that benefit the workforce.

However, it should be borne in mind that the ability of collective bargaining to counterbalance the influence of monopsony power, ultimately creating a more equitable and fair conditions for workers with a dominant buyer will depend on various factors, including the strength of the trade union, the applicable legal framework, and the specific dynamics of the market in question.

- f) Human supervision in AI-driven automated management of workers
To ensure the responsible and ethical management of workers by AI systems, it is necessary to establish robust mechanisms for human oversight that encompass every decision made by AI that impacts a worker. Humans must remain accountable for these decisions, ensuring they adhere to legal standards, transparency, and, whenever feasible, criteria negotiated collectively.¹³⁰

7. Part E: Conclusion

This research has provided context to some public policy issues surrounding the automated management of workers in Nigeria's evolving gig economy. The analysis provided in this research certainly warrants further consideration from stakeholders including policy-makers, employers and organised labour in order to find a more holistic solution that addresses all the issues identified herein.

128 Trade Union Congress, 'Technology Managing People - The Worker Experience' (n 93) 41.

129 Robin Allen QC, Dee Masters 'Technology Managing People – The Legal Implications' (11 February 2021) <https://www.tuc.org.uk/sites/default/files/Technology_Managing_People_2021_Report_AW_0.pdf> accessed 24 September 2023, p. 84.

130 Antonio Aloisi, Valerio De Stafano, *Your Boss is An Algorithm Artificial Intelligence, Platform Work and Labour* (n 10), p. 162.



As shown by this research, using these products can potentially undermine worker rights and privacy, amplify discrimination and reset the balance of power in favour of the employer. Thus, stakeholders must collaborate to produce a workable template for the development and adoption of guidelines and best practices for the automated management of workers in Nigeria. These guidelines should prioritise dignity, privacy, and worker autonomy while ensuring that these products are used in a manner that enhances, rather than replaces, human judgment and decision-making. One important tool in this regard is the use of collective bargaining by labour unions to strengthen worker rights by prescribing criteria for the use of these products.

Furthermore, the public policy issues identified in this research have underscored the need for ongoing monitoring and assessment of algorithmic-based systems used in the workplace. Regular audits and evaluations should be conducted to detect and address biases, errors, and unintended consequences, especially as these products process a massive amount of data on workers. In addition, the need arises to establish mechanisms for independent oversight and accountability, possibly involving labour unions, advocacy groups, civil society and regulatory authorities.

In conclusion, addressing public policy issues in the automated management of workers in Nigeria is a complex task that requires a multi-pronged approach. Surmounting existing challenges requires balancing the potential benefits of these products with the protection of workers' rights and their well-being. Such an approach would enable the realisation of the inherent benefits of algorithmic management for the advancement of societal and ethical goals, rather than its potential for labour exploitation.



APPENDIX 1

List of interviews conducted and interview notes

1. Interview with a driver on Bolt, Uber and Rida conducted on 13 August 2023.

Driver raises concerns about a lack of fair hearing prior to the suspension or deactivation of driver accounts, especially with Bolt and Uber. According to her, there have been cases where drivers, faced deactivation without proper investigation or the opportunity to present their own side of the story. She recalls an instance, where a passenger claimed she had arrived late for a pickup and took a longer route and on this basis made a negative review about her. This led to the suspension of her account by Uber without giving her any chance to explain her own side of the story. She feels it's situations like these that make drivers feel vulnerable. She believes this situation would be better managed if there existed an organisation-wide policy to ask for a review of such decisions or even respond to such allegations.

Regarding Rida which according to her doesn't charge any commission from drivers, which is quite different from the other platforms. While this might seem beneficial to drivers, she has suspicions that they may be monetising or selling the mobility data generated from the rides to third parties as a source of revenue. According to her, it's definitely a unique business model that raises questions about how they sustain themselves without taking a cut from drivers.

2. Interview with a driver on inDrive conducted on Friday 14 July 2023.

One of his primary concerns as a driver on inDrive is the lack of a fair hearing prior to taking punitive measures if a driver is alleged to have violated company policy. According to him, there have been instances where drivers, including him, were reported for various issues without the opportunity to present their own side of the story before action was taken, as a result of which their accounts were suspended or deactivated depending on the gravity of the alleged infraction. He also cited lack of absence of any policy to respond to such allegations or to challenge a punitive decision taken against a driver other than seeking redress at the NICN.

He also suspects that he's constantly monitored through the inDrive app even when he is off duty which to him is a serious invasion of his right to privacy. He also says that he has noticed a pattern in the ride requests he receives at the time he normally ends his shift. According to him, he mostly gets requests for destinations that are very close to his residence, even though he often drives in different parts of Abuja. It's led him to wonder if the company is somehow



tracking his location and prioritising ride requests to his immediate vicinity at the close of his shift. While he understands the convenience for riders, it feels to him like an invasion of privacy.

- 3. On 8 July 2023**, the researcher conducted an interview with Blessing Okezie-Onwuali (Mrs) ACIPM, MCIA (member, Chartered Institute of Administration), HR Executive, Talent Acquisition & Retention at Jackson, Etti & Edu, a leading law firm in Nigeria. The conversation revolved around the topics of HRIS software and the use of personality or psychometric tests as factors in candidate employability. During the interview, she mentioned specific HRIS software solutions, namely Seamless HR and Zoho People. She emphasised that while personality or psychometric tests are not decisive factors for all roles, they could play a crucial role in some positions. She explained that cognitive tests become a requirement for certain roles when they are integral to the job's performance, and they have a direct impact on the individual's suitability for the position. This assessment is irrespective of whether the candidate may have a mental health condition.

In her view, a candidate with a mental health condition may not be suitable for any role within an organisation, regardless of whether the condition qualifies as a disability under the Discrimination Against Persons with Disabilities (Prohibition) Act 2018. Her primary concern is the well-being and protection of all employees within the organisation. She concluded by emphasising that such assessments are vital to ensure a candidate's fitness for a role. If such assessments reveal a mental disability, it is essential to re-evaluate the candidate's suitability considering various factors, including the safety of other staff, the required skill set, and other objective perspectives beyond just mental health.

In her final remarks, she stressed that assessments are conducted with the goal of ensuring that the right person is hired for the job, and there must be alignment between the candidate and the role.

- 4. On 3 June 2023**, researcher conducted an interview with Ms. Ijeoma Santus Etozie, MBA, PHRI, the Lead Consultant at Santus Consulting, an HR consulting firm in Nigeria. This interview focused on the utilisation of call center software for monitoring call center operators. Subsequently, on July 8, 2023, we delved into the topic of using personality and psychometric tests as crucial factors in candidate employability. During the former interview, our discussion primarily revolved around the current HRIS and HCM tools in use in Nigeria. She mentioned notable platforms such as Seamless HR and MyXalary. Drawing from her past experience as a call center supervisor, she also highlighted the significance of Aheeva and the 3CX phone system in monitoring call center agents' activities. She explained that these tools allowed her to remotely access agents' computers and take control of their desktop softphones. This routine



practice was especially beneficial when addressing issues such as slow responses to incoming calls or being on a call for an excessive duration of time.

Furthermore, she mentioned that most call center agents log in at the beginning of their shift to track the total time spent, with a particular focus on productive work hours. In response to my query regarding whether this time tracking system accounted for workers' break entitlements, she confirmed that each worker is allocated a 45-minute lunch break and a 30-minute bathroom break during an 8-hour shift.

Regarding the latter interview on the use of personality and psychometric tests, her view is that the outcomes of such assessments do not necessarily influence an organisation's decision to hire a candidate for some positions.

5. **On 27 May 2023**, researcher conducted a brief interview with a cashier working at a retail supermarket to discuss the use of CCTV for monitoring activities on the premises. The key point that emerged from the interview was that her employer consistently fails to inform employees in advance about the installation of CCTV camera surveillance in the workplace. Additionally, the employer does not provide any explanation for the purpose behind this surveillance practice.
6. **On 19 May 2023**, researcher conducted an interview with a former employee of a company in the FMCG industry that utilised the SENRI system to monitor the real-time location of its field workers. As the manager responsible for implementing this tracking tool, he expressed deep concerns about its intrusive nature, particularly when it came to monitoring workers during their off-duty hours or while at home. In his view, this level of surveillance was excessive and not something he believed the company should have required of him.

Furthermore, he harboured suspicions that none of the workers were fully aware of the extent to which their activities were being monitored, nor had their consent been obtained prior to the implementation of this tracking system. Additionally, he highlighted a lack of information provided by the organisation to its employees regarding the purpose and functionality of the SENRI system, as well as how their activities would be tracked through it. This level of monitoring according to him creates an environment of mistrust and may undermine the ability of workers to collectively organise.



7. On 18 May 2023, researcher conducted an interview with a driver on inDrive and Lagos Ride. During our conversation, the driver voiced several concerns related to information transparency and privacy within these ride-hailing platforms. He highlighted the absence of comprehensive information disclosure by these platforms regarding their automated decision-making processes, particularly with respect to driver-passenger matching and job performance evaluation. In his view, the lack of such transparency raises questions about the level of monitoring conducted on ride-hailing drivers and how the information is used to make decisions that can potentially have adverse effects on drivers. According to him, this level of monitoring for the purpose of decision-making has the potential to negatively impact the earnings of a driver if not 'properly scrutinised', especially when false reviews are given.

8. On 9 May 2023, the researcher conducted an interview with Mr. Adegunle Olabode Folajimi, an HR manager, focusing on HRIS and HCM software. During our discussion, he mentioned specific software solutions, including Zoho People, Seamless HR, and Keke HR. These products according to him have the following functionalities and/or modules: scheduling, personality profiling, payroll processing and hiring and recruitment. In a follow-up interview on July 8, 2023, we explored the use of personality or psychometric tests as a factor in a candidate's employability. He clarified that these tests are not considered decisive factors in hiring but rather serve as tools for assessing a candidate's personality and their potential to handle specific situations and scenarios while on the job. He emphasised that the primary purpose of these tests is to promote self-awareness.

Moreover, he noted that 'a candidate's chances of getting employed for a position might get reduced, based on the outcome of the test, only when the position necessitates a specific personality type, which, in practice, is a rare occurrence and most unlikely'



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